

ADEQ SFY2020 End of Year Water Program Report: TMDL & CWA Assessment

Performance Period: July 1, 2019 – June 30, 2020

The Standards, Monitoring and Assessment Unit and the Watershed Improvement Unit implement the CWA 303(d) and CWA 305(b) Integrated Report IR or “Assessment,” and the Total Maximum Daily Load (TMDL) programs respectively. The IR describes surface water quality across the state and identifies waters not meeting standards as impaired. The CWA requires states to take action to improve water quality in impaired waters by calculating and reducing pollutant loads through TMDLs or other means. CWA 106 grant funding is provided in the PPG to support these efforts.

Program Performance

TMDLs: ADEQ met one of its TMDL vision priority commitments by submitting the Santa Cruz River e. coli TMDL in December 2019 with EPA approval in February 2020. The TMDL was developed in coordination with the Nonpoint source program and technical contract support from EPA. During our review, EPA noted inconsistencies in ADEQ’s adherence to its continuing planning process public notice requirements and worked with ADEQ on process to improve such public notices for future TMDLs.

However, ADEQ did not submit the Pinto Creek copper TMDL as scheduled. EPA has modified the workplan due date for this TMDL several times; it is currently now due December 31, 2020. As this TMDL has been included in ADEQ workplans since December 2004, we look forward to its submittal. During the EOY programmatic discussions, ADEQ reported to EPA that instead of TMDL/Vision Projects, effort is being diverted to support its “Known Ongoing Unauthorized Impacts” (KOU) site activities. ADEQ also reported that it has suspended work on its Vision Commitment for the Queen Creek copper TMDL due to changes in the Navigable Waters Protection Rule. EPA notes the Queen Creek copper TMDL completion has been included as a workplan deliverable with an original due date of June 2007. ADEQ has also reported that it suspended work on its Vision Commitment for the San Pedro River e. coli TMDL. Data collection and drafting of the San Pedro River TMDL tasks have been included in workplans since 2003.

This relatively new KOU program seeks to address potential sources of pollution through swift action. KOU actions do not yet include load allocations or reductions calculations in support the NPS, TMDL, or IR programs. If ADEQ would like to pursue the KOU strategy to meet the requirements of Section 303(d) then the program should evolve to include planning and assessment activities such as calculations of load reductions and pollutant load prioritization to address long term water quality goals.

Assessment: ADEQ has not met grant commitments for workplan deliverables in the performance period. Specifically, the Mule Gulch data summary is more than 6 months overdue and the Big Bug data summary, due June 30, 2020 was not completed. ADEQ clarified during EOY discussions that work was likely diverted to KOU tasks. Davidson Canyon monitoring and data summary work has been suspended since July 2019. While workplan tasks can change, EPA has not received sufficient reporting to document what work ADEQ conducted in lieu of these workplan tasks.

ADEQ provided EPA with its Draft 2020 Integrated Report (IR) in Dec. 2019. The Draft IR assessed waters using WQS that had not been approved by EPA. As discussed in programmatic calls, EPA cannot approve an IR based on unapproved WQS. ADEQ may choose to revise its draft 2020 IR against approved WQS or delay their 2020 IR process until after EPA has acted on their 2019 Triennial Review WQS revisions.

ADEQ continued to experience significant staff and management turnover and staff vacancies over the performance period. ADEQ has cited these challenges as a root cause of missed workplan commitments such as the Big Bug data summary and ability to make progress toward achieving program goals such as the Pinto Creek TMDL. In Spring 2020 ADEQ permanently filled the Watershed Improvement Unit management position, allowing the acting manager to return to a supporting role.

Financial Performance

Highlights and Concerns

Highlights

- The Santa Cruz TMDL for e. coli was submitted and approved achieving one of ADEQ's Vision Commitments.
- ADEQ continues to be one of several states leading efforts to automate portions of the Integrated Report process with the development of their own tools using CRAN R.

Concerns

- CWA section 303(d) requires ADEQ to develop TMDLs to address impaired waterbodies on the 303(d) list. The continued delays in completion of the Pinto Creek TMDL, along with suspension of work in the San Pedro River and Queen Creek, and the lack of planned new TMDL development in the workplan indicate that ADEQ is not meeting this requirement. The KOUI approach may alleviate this concern, however EPA needs to better understand how this approach meets "TMDL alternative" requirements.
- ADEQ reports data collection and analysis work is being suspended and/or has not been completed during the period. EPA does not have adequate reporting from ADEQ to document what was done instead.

SFY21 Priorities:

- ADEQ to follow-up with EPA on how KOUI strategy supports CWA programs, including TMDLs.
- Submission of the Pinto Creek TMDL to EPA in December 2020.
- ADEQ and EPA to reach agreement on the path forward for completing both the 2020 and 2022 IRs.